

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN

THE MONROE, MICHIGAN CENTER)
FOR INDEPENDENT LIVING; INC. *et al.*;) Case No: 02CV73130DT
on behalf of themselves and all others)
similarly situated,)
Plaintiffs,) Honorable: Paul D. Borman
v.)
CITY OF MONROE, MICHIGAN) Magistrate Wallace Capel, Jr.
Defendants.)

Thomas R. Paxton, (P36214) J. Mark Finnegan (P68050)
Garan, Lucow, Miller, P.C. Denise M. Heberle (P64145)
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Attorneys for Defendants

Attorneys for Plaintiffs

**ORDER GRANTING PLAINTIFFS' MOTION AND AWARDING \$40,981.03 IN FEES
AND COSTS**

On December 5, 2005, this Court held a hearing on Plaintiffs' request for an award of fees and costs in the above captioned case. Previously, on July 19, 2004, Plaintiffs had been awarded \$85,000.00 in fees and costs for work expended from the inception of the lawsuit through December 23, 2003. Plaintiffs are now seeking fees for certain categories of work done after that date, specifically for work expended in having the class certified and conducting the final fairness hearing pursuant to F.R.C.P. Rule 23, also for litigating a contempt motion regarding Defendants' allegedly installing 46 defective curb ramps during the year 2003 resurfacing season, and finally for work in litigating this latest motion for fees

and costs.

Defendants have fully contested Plaintiffs' current motion for fees and costs. After fully reviewing the pleadings submitted by the parties, and after conducting the hearing on this matter on December 5, 2005, the Court makes the following award and Order.

Regarding Plaintiffs' motion for contempt, Plaintiffs alleged that Defendants had built 46 defective curb ramps during year 2003 resurfacing, in violation of the Consent Decree and Court Order entered on May 28, 2003. Defendants disputed this, alleging that the ramps were legally built, and that it was not possible to build any of the 46 ramps in issue to be any more accessible. After reviewing the briefs, and conducting hearings on the matter, on January 13, 2005 the Court ordered Monroe to rebuild each of the 46 curb ramps in question. Plaintiffs prevailed entirely on the allegations in their motion for contempt. In addition, the class was certified, and the fairness hearing was successfully concluded. Also, Plaintiffs have successfully sought an award of fees for time spent litigating for fees. Thus, Plaintiffs are prevailing parties for purposes of these matters.

Plaintiffs seek an award of \$225 per hour for attorneys J. Mark Finnegan and Denise Heberle, and \$80 for paralegal Megan Buffington. The Court found in its July 19, 2004 Order that these amounts were reasonable, given the skills and experience of these three individuals, and I concur once again, for the reasons set out in that Order.

Plaintiffs submitted detailed invoices for all of the work, broken into tenths of an hour, and sufficiently detailed for the Court to evaluate the reasonableness of the time spent on each activity. Plaintiffs seek a total of 115.3 hours expended on litigating the contempt motion regarding year 2003 resurfacing, the 46 defective curb ramps. The Court awards this entire amount, which comes to \$26,310.60, which includes \$368.10 in costs.

Plaintiffs also seek payment for a total of 29.3 hours of work spent on the fairness hearing, class certification and related matters. The Court awards payment for this entire amount, which comes to \$6,632.03, which includes \$39.53 in costs.

Plaintiffs also seek a total of 54.2 hours expended by paralegal Megan Buffington in litigating these issues. The Court awards this entire amount, which comes to \$4,832.25, which includes \$496.25 in costs.

Finally, Plaintiffs seek and the Court awards an additional \$2,947.50 for time and \$258.65 in costs expended after the Court's July 11, 2005 Order regarding additional class notice, and in preparing for and conducting the hearing leading to today's award of fees and costs.

In sum, the Court Orders that within thirty days of Entry of this Order, that Defendants shall pay \$4,832.25 to paralegal Megan Buffington, and \$36,148.78 to Heberle & Finnegan, PLLC.

So Ordered this 4th. day of January, 2006.

s/ Wallace Capel, Jr.
WALLACE CAPEL, JR.
UNITED STATES MAGISTRATE JUDGE